LENAPE TECHNICAL SCHOOL

SECTION: PUPILS

TITLE: UNLAWFUL HARASSMENT

ADOPTED: December 16, 2004

REVISED: May 21, 2015

248. UNLAWFUL HARASSMENT

1. Purpose

The Joint Operating Committee strives to provide a safe, positive learning climate for students in the school. Therefore, it shall be the policy of the school to maintain an educational environment in which student harassment in any form is not tolerated.

2. Authority
Sec. 703 of Title VII of Civil Rights Act of 1964; Sec. 5(a) PHRC Act; Title IX of the 1972 Education Amendment

The Joint Operating Committee prohibits all forms of unlawful harassment of students by all students and staff members, contracted individuals and vendors, and volunteers in the school.

The Joint Operating Committee encourages students who have been harassed to promptly report such incidents to the Administrative Director or appropriate personnel designated by the Administrative Director.

The Joint Operating Committee directs that complaints of harassment be investigated promptly, and corrective action taken when allegations are verified. Confidentiality of all parties shall be maintained, consistent with the school's legal and investigative obligations. Neither reprisals nor retaliation shall occur as a result of good faith charges of harassment.

2. Definitions
OCR Guidelines on Sexual Harassment, Fed. Reg. Vol. 62, #49; PHRC Guidelines; PA Bulletin Vol. II, #5 Policy Memo OCR USDE March 1997

The term **harassment** includes but is not limited to repeated, unwelcome and offensive slurs, jokes, or other verbal, graphic or physical conduct relating to an individual's physical characteristics, race, color, religion, ancestry, gender, sexual orientation, national origin, age or handicap/disability that create an intimidating, hostile or offensive educational environment.

1. Harassment can take the form of, but not limited to, derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name-calling, graffiti, innuendo, gestures, physical conduct, stalking, threatening, bullying, exploiting, shunning, or the display or circulation of written materials or pictures.

	2. Computer technology, such as e-mail and websites, can be a means for accomplishing harassing behavior. Such conduct, even if initiated outside of school, may be in violation of this policy if there is a valid nexus with the school and/or if it disrupts the educational process. **Ethnic harassment** includes the repeated, unwelcome and offensive use of any derogatory word, phrase or action characterizing a given racial or ethnic group that creates an intimidating, hostile, or offensive educational environment. **Sexual harassment** shall consist of unwelcome sexual advances, requests for sexual favors, and other inappropriate verbal or physical conduct of a sexual nature when: 1. Submission to such conduct is made explicitly or implicitly a term or condition of a student's academic status. 2. Submission to or rejection of such conduct is used as the basis for academic or work decisions affecting the individual. 3. Such conduct deprives a student of educational aid, benefits, services or treatment. 4. Such conduct has the purpose or effect of substantially interfering with the student's school performance or creating an intimidating, hostile or offensive education environment. Examples of sexual harassment include but are not limited to sexual flirtations, advances, touching or propositions; verbal abuse of a sexual nature; graphic or suggestive comments about an individual's dress or body; sexually degrading words to describe an individual; jokes, pin-ups, calendars, objects, graffiti, vulgar statements, abusive language, innuendoes, references to sexual activities, overt sexual conduct; or any conduct that has the effect of unreasonably interfering with a student's ability to work or learn or creates an intimidating, hostile or offensive learning or working environment.
3. Delegation of Responsibility	**Student on student harassment** The school recognizes that a certain amount of teasing is inherent among school age children. Therefore, verbal or physical actions that are not specifically defined as harassment, may be deemed harassment in particular situations, on a case-by-case basis, by the Administrative Director or appropriate personnel designated by the Administrative Director under the following conditions:

1. The Administrative Director or appropriate personnel designated by the Administrative Director shall warn the offending student that the administration considers the conduct to have reached the level of inappropriate behavior.

2. The warning shall be verbally issued and shall be confirmed in writing to the offending student and the offending student's parent.

3. The warning shall advise the student and parent that the Administrative Director or appropriate personnel designated by the Administrative Director is available to further explain the purpose for the principal's warning.

If the offending student continues the inappropriate behavior, the student shall be in violation of this policy.

Determining whether or not **student-on-student** harassment has, in fact, occurred requires a determination based on all the facts and surrounding circumstances. School officials should consider the following:

1. The nature of the behaviors;
2. Whether there were past incidents involving same or other students;
3. Whether there were continuing patterns of behavior;
4. Relationship between the parties;
5. Context in which the alleged incident occurred;
6. How often the conduct occurred;
7. The race, national origin, religion, sex or age of the respective parties;
8. Whether the alleged perpetrator was in a position of power over the student allegedly subjected to harassment;
9. Number of alleged perpetrators;
10. Where harassment occurred; and/or
11. Whether the conduct adversely affected the victim's education or learning environment.

The school shall annually inform students, staff, parents, independent contractors and volunteers that unlawful harassment of students will not be tolerated.

Each staff member shall be responsible to maintain an educational environment free from all forms of unlawful harassment.

Each student shall be responsible to respect the rights of their fellow students and to ensure an atmosphere free from all forms of unlawful harassment.

4. Guidelines	Students shall be informed that they may choose to report harassment complaints to the school principal, teachers, counselors, nurses, and administrators. Any employee, who receives a harassment complaint, whether verbal or written, shall report such to the Administrative Director or appropriate personnel designated by the Administrative Director. **Reporting Procedures** A student, who believes he or she is a victim of harassment, should bring the matter to the attention of a teacher, counselor, principal, administrator or activities sponsor in written or verbal form. Any school employee receiving a complaint of, or observing or otherwise learning of, an incident of alleged harassment, shall immediately report it to the Administrative Director or appropriate personnel designated by the Administrative Director together with a summary statement providing background information regarding the incident. Any reports of harassment shall be forwarded to the Administrative Director as soon as possible, in writing, by the person who received such a report. The report shall be signed by the complainant and the person who received the report. If a complaining student chooses not to sign a written complaint for any reason, an investigation of the complaint shall still be made. In such cases, this investigation may encompass a monitoring of the situation by the Administrative Director or appropriate personnel designated by the Administrative Director. Reports shall be submitted on preprinted forms which have been approved and distributed by the Administrative Director. The Administrative Director shall make every reasonable effort to ensure that reporting forms are readily available to all personnel. If the complaint concerns alleged conduct by the Administrative Director, the complaint form shall be delivered to the Chairperson of the Joint Operating Committee. **Investigative Procedures** The Administrative Director or person(s) designated by the Administrative Director shall promptly and thoroughly investigate all matters or allegations of harassment, in as confidential a manner as possible**.**

	The Administrative Director and/or appropriate personnel designated by the Administrative Director will promptly investigate the complaint and will prepare appropriate findings and written determinations and recommendations for alleviating the problem, including any discipline, as soon as practicable. The Administrative Director has the discretion to initiate discipline, including suspension, prior to completion of any investigation. All formal and informal due process as required by law shall be followed**.** If the allegations are verified by the investigation, the Administrative Director shall take appropriate corrective action as soon as practically possible after receipt of, or completion of, the investigative report. Corrective action may include appropriate discipline. In all cases where the complaint is founded and a decision has been made to take disciplinary action against the accused, the complainant may be informed as to the discipline to the extent permissible by law. If, after a complete and thorough investigation, the allegations remain indeterminate, unsubstantiated or unverifiable, the Administrative Director shall carefully record his/her conclusions in writing, and shall document all the steps that were taken in an attempt to verify the allegations. The Administrative Director shall also document the basis for his/her decision regarding the allegations. These results will be maintained by the school, separate and apart from any personnel or student file**.** **<u>Discipline</u>** A substantiated charge against a staff member shall subject such staff member to disciplinary action, including possible discharge.
Pol. 317, 417, 517	
Pol. 218, 233	In the case of **student-on-student** harassment and when appropriate, a reasonable attempt may be made to bring resolution to a matter between the complaining student and the alleged harassing student under the mediation of the principal or designee. The principal or designee shall not undertake mediation without the consent of both students' parents/guardians.
Pol. 218	In determining what is an appropriate response to a finding that **student-on-student** harassment has occurred, school officials shall consider the following: (i) What response is most likely to end any ongoing harassment; (ii) Whether a particular response is likely to deter similar future conduct by the perpetrator or others; (iii) The amount and kind of harm suffered by the victim of the harassment; and (iv) The identity of the party who engaged in the harassing conduct

A substantiated charge against a student shall subject such student to disciplinary action, consistent with the Student Code of Conduct, and may include educational activities and/or counseling services related to unlawful harassment.

Rights Of The Accused

The school recognizes that all allegations of harassment are not necessarily true and acknowledges that employees, supervisors, students and associates may be unjustly accused.

The school affirms its resolve to protect the rights of all accused parties, to fairly and accurately investigate all allegations coming to its attention, and to apply all appropriate disciplinary or administrative sanctions when necessary.

All matters involving unlawful harassment complaints shall remain confidential to the full extent possible.

The guidelines contained in this policy are not intended to supercede or circumvent any procedural rights accorded employees or students by the Pennsylvania Public School Code of 1949, as amended, federal or state laws or regulations, collective bargaining agreements or administrative compensation plans.

The joint operating committee recognizes that the law of harassment is continually evolving as a result of judicial decisions. Therefore, upon receipt of any complaint or report of harassment, the Administrative Director shall consult with the solicitor to determine if any portions of this policy, including investigation and disciplinary procedures, are no longer lawful; or if additional procedures are required.